

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

VIACOM INTERNATIONAL INC., COMEDY)	
PARTNERS, COUNTRY MUSIC)	
TELEVISION, INC., PARAMOUNT)	
PICTURES CORPORATION, and BLACK)	
ENTERTAINMENT TELEVISION LLC,)	
)	
Plaintiffs,)	
vs.)	Case No. 1:07CV02103
YOUTUBE, INC., YOUTUBE, LLC,)	
and GOOGLE, INC.,)	
)	
Defendants.)	
)	
THE FOOTBALL ASSOCIATION PREMIER)	
LEAGUE LIMITED, BOURNE CO., et al.,)	
on behalf of themselves and all)	
others similarly situated,)	
)	
Plaintiffs,)	
vs.)	Case No. 07CV3582
YOUTUBE, INC., YOUTUBE, LLC, and)	
GOOGLE, INC.,)	
)	
Defendants.)	
)	

VIDEOTAPED DEPOSITION OF SHASHI SETH
New York, New York
Thursday, July 16th, 2009

REPORTED BY:
ERICA RUGGIERI, CSR, RPR
JOB NO: 17168

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4 July 16, 2009

5 8:09 a.m.
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7 VIDEOTAPED DEPOSITION OF SHASHI
8 SETH, held at the offices of Jenner &
9 Block, 919 Third Avenue, New York,
10 New York, pursuant to notice, before
11 before Erica L. Ruggieri, Registered
12 Professional Reporter and Notary Public of
13 the State of New York.
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A P P E A R A N C E S

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JUAN ORTIZ, Videographer

1
2 IT IS HEREBY STIPULATED AND
3 AGREED, by and between the attorneys
4 for the respective parties herein,
5 that filing and sealing be and the
6 same are hereby waived.

7 IT IS FURTHER STIPULATED AND
8 AGREED that all objections, except as
9 to the form of the question, shall be
10 reserved to the time of the trial.

11 IT IS FURTHER STIPULATED AND
12 AGREED that the within deposition may
13 be sworn to and signed before any
14 officer authorized to administer an
15 oath, with the same force and effect
16 as if signed and sworn to before the
17 Court.

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1 SETH

2 A. It's about a dozen.

3 Q. Now, while you were still
4 product lead of search, do you recall
5 08:19:51 Google acquiring YouTube?

6 A. Yes.

7 Q. And were you involved in any way
8 in the decision by Google to acquire
9 YouTube?

10 08:20:02 A. No.

11 Q. And while you were product lead
12 of search at Google, did you work on any
13 aspect of YouTube?

14 A. No.

15 08:20:12 Q. Now, if you go back to
16 Exhibit 1, it indicates that when you left
17 your position as product lead of search,
18 January of 2007, you subsequently became
19 the head of monetization at YouTube

20 08:20:33 thereafter, in the same month, January of
21 2007; is that correct?

22 A. That is correct. There wasn't a
23 title defined right away, but over the
24 course of next couple months that was the
25 08:20:47 title that I set into the job with.

1 SETH

2 Q. So within a couple months of
3 joining YouTube, you received a title of
4 head of monetization?

5 08:20:57 A. Uh-hum.

6 Q. And was there any title that you
7 had when you first started?

8 A. No.

9 Q. Just going back for a moment to
10 08:21:07 your time as product lead of search, did
11 you work on any aspect of search for
12 video?

13 A. No.

14 Q. And how long were you head of
15 08:21:23 monetization -- sorry. How long were you
16 working at YouTube?

17 A. Roughly 16 months, 17 months,
18 something like that.

19 Q. And am I correct that you left
20 08:21:38 in about May of 2008?

21 A. Right. My exit from Google was
22 in June of 2008.

23 Q. And were you working on
24 YouTube-related projects until June of
25 08:21:52 2008?

1 SETH

2 A. Yes.

3 Q. And what was the reason for your
4 leaving your job at YouTube?

5 08:22:00 A. I wanted to go back to a
6 slightly smaller setup. And the industry
7 looked inside Google for other
8 opportunities, and once I couldn't find
9 anything, I decided to go join Cooliris.

10 08:22:23 Q. So did you leave your job at
11 YouTube voluntarily?

12 A. Yes.

13 Q. Now, going back to January of
14 2007, when you switched from product lead

15 08:22:38 of search to head of -- to YouTube, what
16 were your job responsibilities?

17 A. Initially, my job was to help
18 figure out what the business model for
19 YouTube was. And I would say we probably

20 08:22:57 spent four to eight weeks looking at
21 various aspects of that, and then over the
22 course of that period it became clear that
23 taking on this role would make a lot of
24 sense.

25 08:23:10 Q. And when you say "this role" --

1 SETH

2 A. As head of monetization of
3 YouTube.

4 Q. When you -- just a moment ago
5 08:23:25 you said, we probably spent four to eight
6 weeks looking at various aspects of the
7 business model for YouTube.

8 Who were you referring to, when
9 you said "we"?

10 08:23:35 A. I was working closely with Steve
11 and Chad, the founders of YouTube, as well
12 as with some engineers and product
13 managers at YouTube.

14 Q. And when you say "Steve and
15 08:23:53 Chad." You were referring to Steve Chen
16 and Chad Hurley?

17 A. That's correct.

18 Q. With respect to the other
19 engineers and product managers, do you
20 08:24:01 recall who they were?

21 A. Yes. Matthew Liu, L-I-U, Shiva
22 Rajaraman and Franck Chastagnol, Maryrose
23 Duntan. And one more, Jamie Byrne,
24 J-A-M-I-E, B-Y-R-N-E.

25 08:24:41 Q. And over the course of the, I

1 SETH

2 think you said four to eight weeks when
3 you were looking at various aspects of the
4 business model, did you have in-person
5 08:24:54 meetings with the people that we were --
6 that you just listed?

7 A. Absolutely.

8 Q. And what kinds of things did you
9 discuss in those meetings?

10 08:25:04 MR. WILLEN: Objection to form.

11 Q. You can answer.

12 A. Most of our meetings -- sorry,
13 could you restate the question.

14 Q. Sure. During those meetings in
15 08:25:21 the four to six -- four- to eight-week
16 period when you were looking at various
17 aspects of the business model, what kinds
18 of topics did you discuss in the meetings?

19 A. The topics that we discussed
20 08:25:32 mostly were what are the ways that we can
21 monetize YouTube. Looked at various ways
22 one could do that. We discussed them in
23 details, built business models and cases
24 around it.

25 08:25:58 Q. And when you say that you built

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business models and cases around these
different ways to monetize YouTube, was
that documented in a written form?

08:26:11 A. Yes. And they most likely are
on my computer.

Q. And you are referring to a
computer you still have in your
possession?

08:26:24 A. No. This is the computer that I
turn in to Google when I left the company.

Q. And those types of, the business
models that you mentioned, what kinds
of -- were those -- what kinds of

08:26:41 documents, what types of written documents
would those be?

MR. WILLEN: Objection to the
form. It's ambiguous.

Q. Would they be Word documents,
08:26:52 Excel documents, Powerpoints?

A. Yes, all of those.

Q. And do you recall whether you
e-mailed those documents, or those
documents were e-mailed back and forth
08:27:14 between the various persons you listed

1 SETH

2 earlier?

3 A. I am certain, yes.

4 Q. And do you also during this

5 08:27:32 period, this four- to eight-week period,

6 do you recall using Google Docs or

7 spreadsheets or I think what internally

8 might have been called Rightly or Tricks?

9 A. For some aspects, yes.

10 08:27:50 Q. So some aspects of the business

11 models that you were discussing and were

12 documented in written form were documented

13 on Rightly or Tricks?

14 A. Could be.

15 08:28:13 To further answer the question,

16 I don't recall exactly which documents,

17 but in the course of working, we use all

18 the sources you mentioned, like Excel,

19 Powerpoint, Word, as well as Google Docs.

20 08:28:27 Q. And did you also -- just to

21 clarify, your statement just now about the

22 types of documents that you used, does

23 that extend throughout the time that you

24 worked at YouTube?

25 08:28:39 A. Yes.

1 SETH

2 Q. And did you also use any type of
3 wiki when you were at YouTube?

4 A. Yes.

5 08:28:57 Q. Can you describe generally how
6 you would use the wiki, what types of
7 information you would document on the
8 wiki?

9 A. Mostly project-related
10 08:29:08 information. So if it were a certain
11 project and the information related to the
12 project, what we were going to work on,
13 who was working on it, what problems, et
14 cetera, would be documented in the wiki.

15 08:29:22 Q. And did --

16 MR. WILKENS: Strike that.

17 Q. When you first joined YouTube,
18 did you interview with anybody for that
19 position?

20 08:29:46 A. Steve Chen and Chad Hurley.

21 Q. Anybody else besides those two?

22 A. No.

23 Q. And in those interviews did they
24 describe to you the kinds of work that
25 08:30:01 they envisioned for the position that you

1 SETH

2 were interviewing for?

3 A. Yes. I wouldn't describe it as
4 much as an interview as a very long
5 08:30:14 conversation.

6 Q. And can you just describe the --
7 in that, those very long conversations,
8 what -- how Steve Chen and Chad Hurley
9 envisioned the position that you were
10 08:30:34 considering taking?

11 A. So we discussed what, their
12 thoughts about what the important things
13 related to YouTube's both near-term and
14 long-term future were and where they could
15 08:30:56 use the most amount of help from an
16 experienced person like me.

17 Q. And what were the important
18 things that they -- that they mentioned
19 for the future of YouTube?

20 08:31:09 A. From what I can recall, mobile
21 was a very important aspect that we
22 discussed and how being on mobile
23 platforms would be something that would be
24 extremely useful for users; as well as
25 08:31:39 expanding into international locales,

1 SETH

2 mobile platforms would be useful as well.

3 We discussed community aspects,
4 and then the one particular program that
5 08:31:53 we discussed was starting a program called
6 the YouTube user program, User Partner
7 program, to help users who were active
8 contributors to YouTube in uploading
9 videos and being able to monetize their
10 08:32:15 content and compensate them for those
11 efforts.

12 Q. Is there anything else you can
13 recall?

14 A. No.

15 08:32:26 Q. You mentioned just a minute ago
16 community aspects.

17 What were you referring -- what
18 does that refer to?

19 A. How community members or users
20 08:32:38 of YouTube interact with YouTube, whether
21 it is leaving comments or setting up tags
22 or organizing information and so on.

23 Q. And do you recall discussing why
24 that, those community aspects were
25 08:32:58 important for the future of YouTube?

1 SETH

2 A. From what I can recall, it was a
3 conversation with Steve Chen where he
4 thought that the community aspects were
5 08:33:15 one reason why YouTube was so successful
6 and that we should spend more time
7 refining that process.

8 Q. When you first joined YouTube,
9 can you describe how, if at all, the
10 08:33:45 YouTube website was being monetized?

11 A. When I first came to YouTube, I
12 believe that for a short period of time
13 before I arrived it had been running
14 remnant advertising inventory on pages of
15 08:34:17 YouTube in the form of a leader board or
16 banner advertising as someone in the
17 industry.

18 Q. And when you say that the
19 remnant ads or banner ads were being run
20 08:34:32 on pages, were they being run on watch
21 pages?

22 MR. WILLEN: Objection to the
23 extent that I think you inflated
24 remnant ads and banner ads. I don't
25 08:34:44 know if that was intended.

1 SETH

2 Q. If you understand the question,
3 you can answer it.

4 A. There were banner ads being run.

5 08:34:53 I do not distinctly remember all the pages
6 they were being run in, but there is a
7 good chance that they were being run on
8 the watch pages.

9 Q. Do you recall any pages that the
10 08:35:11 banner ads were being run on when you
11 first joined YouTube?

12 A. From what I recall, I recall
13 them being on many, many pages. I cannot
14 tell you exactly which pages they were on,
15 08:35:27 but they were -- they are on many pages.

16 Q. And I think you said earlier,
17 that -- let me ask you, sorry to go back
18 to this issue, about remnant versus banner
19 ads.

20 08:35:45 Can you define what a remnant ad
21 is?

22 A. A remnant ad is an ad that comes
23 from a network that is being used by the
24 website as a fallback to some other form
25 08:36:04 of advertising; meaning if you cannot fill

1 SETH

2 partners?

3 A. No.

4 Q. Now, with regard to the UGC

5 08:45:42 partners that you mentioned you had

6 contact with, was that in connection with

7 the project that you mentioned discussing

8 with Steve and Chad, I believe maybe

9 originally it was referred to as Claim

10 08:46:07 Your Content for users; is that correct?

11 A. That is correct.

12 Q. And then the name of that

13 changed later?

14 A. To the YouTube User Partner

15 08:46:15 program.

16 Q. And is it in connection with

17 that program that you had contact with the

18 UGC partners?

19 A. Yes.

20 08:46:26 Q. When you first started at

21 YouTube what -- what projects -- what

22 monetization-related projects were you

23 involved in?

24 MR. WILLEN: Objection to the

25 08:46:45 form.

1 SETH

2 Q. You can answer.

3 A. The first project that we
4 undertook was the YouTube User Partner
5 08:46:52 program. And at the same time we were
6 experimenting with various ideas on how to
7 monetize YouTube content, and I would say
8 we ran those experiments for a period of
9 three to four months, testing ideas like
10 08:47:21 how pre-rolls performed and other forms of
11 video advertising-related ideas. That's
12 how we started.

13 Q. And in addition to those -- in
14 addition to the YouTube Partner program
15 08:47:57 and the experiments in advertising you
16 just mentioned, over the course of your
17 time at YouTube what, if any, other
18 projects on monetization did you work on?

19 A. Sure. The first one would be
20 08:48:15 the video advertising units that we
21 created. So on the watch pages we
22 developed the overlay ad model, launched
23 that in August of 2007; and combined the
24 overlay with a companion banner unit, also
25 08:48:37 on the watch page, and held a price and

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advertising units, the targeting ads, the
home page monetization, search-related
advertising components and user -- and
08:50:22 user engagement.

Are there any other monetization
projects that you can recall working on
while you were at YouTube?

A. Each of these projects have many
08:50:36 components to it, so it's hard to break
each one of them down. But anything
related to these ad models or revenue
models was undertaken by my team.

Q. And for each one of these, if we
08:51:01 can maybe just go through them in order.
I'm going to ask you sort of who else on
your team or who else at YouTube worked
with you on them, I guess taking first the
YouTube User Partner program.

08:51:14 A. I built the YouTube partner
program myself in the beginning and
provided all care and feeding for it until
we decided to take it out of the pilot
program, which probably ran through August
08:51:33 of 2007, and then handed it over to Thai

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Tran on my team, who then took it from
there to the next level.

Jay Akkad built the contest
08:51:54 platform, the user engagement platforms.

Matthew Liu worked on the search
elements.

Shiva Rajaraman worked on the
video advertising, on the watch page, the
08:52:27 overlays and the companion banner units.

And Tracy Patrick Chan worked on
all date-related projects.

My team also owned all
data-related projects. And this group of
08:52:52 product managers had a team of engineers
dedicated for these projects, which was
managed by Franck Chastagnol.

Q. I think you said before that
Franck Chastagnol didn't report to you.

08:53:12 But he -- but am I correct that
he -- he managed this team of engineers
that did service the team that you just
listed?

A. Exactly.

08:53:22 Q. Now, earlier when you listed the

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The pilot was meant to last several months. I think we ran it for literally five or six months. And the goal was to see how well the user partners would perform, how motivated and engaged they would be and how successful we would be in monetizing that content and, in return, sharing that money with the user partners.

Q. And how successful did that pilot turn out to be?

A. I would describe it as very successful. We started with, from what I can recall, roughly about 35 people, I believe. And by the time the pilot finished, we probably had 100 to 150 people in the program.

And each of those partners was engaged in creating new content and uploading new content, and we were definitely successful in monetizing and sharing revenues back with them. So overall, I think all the partners were happy that they were now receiving a

1 SETH

2 compensation for their efforts.

3 Q. And then did that project move
4 beyond the pilot phase to roll out to a
5 08:59:26 larger number of partners?

6 A. Yes. In, from what I can
7 recall, in November 2007 we decided to
8 expand the program, and Thai Tran was
9 leading the effort at that time with the
10 08:59:46 goal to expand that program to several
11 thousands of users and provide better
12 targeting, better advertising
13 opportunities and so on.

14 But also to scale the program,
15 08:59:58 so that there was very limited, if any,
16 human involvement in running of the
17 program.

18 Q. And do you recall approximately
19 how many users were in this program when
20 09:00:27 you -- in the YouTube user program when
21 you left the company?

22 A. I would say several thousand.

23 Q. And going back to the pilot for
24 a minute. How did you select the users
25 09:00:54 that would be included in the pilot?

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technologies or human review applied to
ensure that the content that was part of
the program did not have copyright
09:27:48 violations?

MR. WILLEN: Objection to the
form.

A. Repeat that question, please, or
rephrase it. I'm not sure how to answer
09:28:04 that.

Q. So you mentioned that the videos
that were part of the program underwent
audio fingerprinting and then subsequently
video fingerprinting when that came
09:28:16 on-line; is that correct?

A. That is correct.

Q. Was any other kind of technology
to detect copyright violations or any kind
of human review applied to those videos,
09:28:31 before they were monetized through the
program?

A. In the pilot process we did, for
a period of time, have all videos go
through a human review process, just to
09:28:50 make sure that the pilot would get off the

1 SETH

2 ground well. As time went on, we removed
3 prescreening, so to speak, of the videos
4 and moved the human review process to only
5 09:29:09 apply if any of those monetized videos
6 were flagged by the user community.

7 So the process is run it through
8 the fingerprinting technology to whatever
9 capability existed at that point. If it
10 09:29:34 passed that test, monetize the video.

11 Should any of those videos get
12 flagged, then perform a human review to
13 pass an additional judgment whether there
14 was any infringing -- sorry, copyright
15 09:29:52 violations, so to speak.

16 Q. But -- and the process you just
17 described is the process that was adopted
18 after you stopped prescreening; is that
19 correct?

20 09:30:08 A. Repeat that.

21 Sorry, my mind was --

22 Q. Sorry about that. I wasn't very
23 clear.

24 So from my understanding, there
25 09:30:19 were two, kind of two phases --

1 SETH

2 A. Yes.

3 Q. -- for the pilot, and I don't
4 know for what period. There was a
5 09:30:25 prescreening human review before
6 monetizing the videos in the program; is
7 that correct?

8 A. That is correct.

9 Q. And then at some point the
10 09:30:32 prescreening was stopped, and instead the
11 human review would only occur if there was
12 a flag by someone in the user community
13 when they watched a video that was already
14 up -- available for monetization?

15 09:30:46 A. That is correct.

16 Q. All right. Do you recall
17 approximately when this switch from the
18 prescreening to the review after flagging
19 occurred?

20 09:30:58 A. My guess would be three months
21 after we started the pilot project.

22 Q. And why was there a switch in
23 the process from prescreening to the
24 review after flagging?

25 09:31:29 MR. WILLEN: I don't know

1 SETH

2 A. For a very short period of time,
3 I would say five days or so at the start
4 of the program, I myself as well as a
5 09:36:55 gentlemen by the name of George Strompolos
6 who was part of the business development
7 and operations team, reviewed the videos.
8 And then at the end of that five-day,
9 roughly five-day period, we handed it off
10 09:37:15 to the operations team. I do not know
11 exactly the names of the people who were
12 involved on the operations side.

13 Q. Do you know who was kind of
14 heading up the operations team that did
15 09:37:34 the review?

16 A. The review process was headed by
17 the name of Shenaz, S-H-E-N-A-Z, Zack,
18 Z-A-C-K.

19 Q. And during the five days or so
20 09:37:51 that you were, yourself, involved in the
21 prescreening, what were you looking for
22 when you were reviewing these videos?

23 A. Just a cursory glance to kind of
24 ensure that the content being uploaded
25 09:38:16 actually did belong to the user partners

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any written or oral guidelines about what
to look out for?

A. No.

09:54:43 Q. Do you know whether, after your
involvement ceased, and I think you said
the operations team took over, whether
there were written guidelines for the
reviewers about what to look for?

09:55:06 A. From my recollection, I think
there was.

Q. And did you -- do you know what
any of those guidelines were?

A. No.

09:55:12 Q. You mentioned, I think, that
someone named Shenaz Zach was in charge of
the team that was doing the human review,
correct?

A. Yes.

09:55:26 Q. And so -- I'm sorry, is that a
she or a he?

A. She.

Q. Would she be the best person to
talk to about what written guidelines
09:55:39 there were for review?

1 SETH

2 Q. And then what's your general
3 understanding of what the squad operations
4 team was responsible for at YouTube?

5 10:03:20 A. It was responsible for, and this
6 is my understanding. I'm sure you may get
7 a very different answer from people who
8 ran that program or that group. My
9 understanding is, very simply, that they
10 10:03:38 provided the human review process for all
11 flagged videos, regardless of whether they
12 were in this program or not.

13 Q. And so, just returning for one
14 second to squad's role with respect to the
15 10:03:57 specific User Partner program, I think,
16 correct me if I'm wrong, my understanding
17 is they got involved with the human review
18 after you stopped doing it after the first
19 five days; is that correct?

20 10:04:07 A. That is correct.

21 Q. You can put that one aside.

22 MR. WILKENS: Let me mark
23 another one.

24 (Seth Exhibit 3, document
25 10:04:57 produced by Google, Bates stamp

1 SETH

2 GOO001-03037036 through 03037065,
3 marked for identification, as of
4 this date.)

5 10:04:55 Q. This is another document
6 produced by Google in the litigation,
7 with, starts with the Bates stamp
8 GOO001-03037036, and it ends with
9 03037065.

10 10:05:34 Having had a chance to at least
11 page through it, do you recognize this
12 document, Mr. Seth?

13 A. Yes.

14 Q. Can you describe what it is?

15 10:06:15 A. It is a document that I
16 produced, I believe in my third month at
17 YouTube, to give the management team at
18 both YouTube as well as Google a sense of
19 what our long-term monetization strategy
20 10:06:36 could be.

21 Q. So you created this
22 presentation?

23 A. Yes.

24 Q. And if you turn to the second
25 10:06:53 page of the presentation, which I think at

1 SETH

2 answer?

3 Q. Yes. If you understand the
4 question, you can answer it.

5 10:14:54 A. This document that we produced
6 was with very basic understanding and a
7 limited strategy of various elements
8 described here. I am not entirely sure
9 that there was too much thought given to
10 10:15:20 exactly how things would get implemented
11 down the road.

12 Q. Can you just explain your
13 understanding of what "PVA for search
14 results, PVs," means?

15 10:15:37 A. PV essentially stands for
16 promoted videos. And it is the idea that
17 a video owner, for example Warner Music,
18 wanting to promote a Shakira video could
19 go and somehow purchase advertising, or
20 10:16:02 promotions in this case, to promote that
21 video on YouTube.

22 Q. And at the time of the
23 presentation in March of '07, the
24 spreadsheet shows that, or this chart
25 10:16:20 shows that you were predicting a total

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02:01 2 actually, in effect, a signature on file for -- you
02:01 3 know, so they file basically one DMCA notice, and then
02:01 4 every time they use the tool, they're effectively
02:01 5 amending, I believe -- I don't know if that's legally
02:01 6 technically correct, but essentially updating the notice
02:01 7 to include the additional content.

02:01 8 Q. Are you aware that my client, the Premier
02:01 9 League, has sent DMCA notices for the removal of Premier
02:02 10 League content?

02:02 11 A. I believe so.

02:02 12 Q. And you understand that the Premier League does
02:02 13 not want its soccer content on YouTube?

02:02 14 A. I'm not personally familiar with their content,
02:02 15 but that's my understanding.

02:02 16 Q. What's YouTube doing to actively or proactively
02:02 17 scan for Premier League content?

02:02 18 A. So are you asking in the sense of the --

02:02 19 Q. What you were doing for --

02:02 20 A. For the RIAA?

02:02 21 Q. Correct.

02:02 22 A. I'm not aware of scans being done in this
02:03 23 fashion for the Premier League.

02:03 24 Q. Why do you think YouTube was proactively
02:03 25 scanning to remove RIAA-identified content, but not

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02:08 2 proactively scanning for the content.

02:08 3 How did you go about doing it in that case?

02:08 4 A. I think in this case it was just that, someone
02:08 5 entering in, you know, maybe the word "Wheezer" and
02:08 6 looking for their music videos or something like that.

02:08 7 Q. So using that methodology, when is the last
02:08 8 time you recall YouTube engaging in proactive removal?

02:08 9 A. I don't recall when that was.

02:08 10 Q. This year?

02:08 11 A. Not to my knowledge.

02:08 12 Q. Could you put it in any time frame?

02:08 13 A. Certainly around the time this e-mail was sent.
02:09 14 I don't know exactly the evolution.

02:09 15 And as I said earlier, I don't think it was a
02:09 16 bright line moment in time when the practices changed.
02:09 17 I think they evolved based on the needs of individual
02:09 18 rights holders and the scale of the site.

02:09 19 Q. Did you participate in any discussions or
02:09 20 communications within YouTube about whether or not to
02:09 21 continue the practice of proactively scanning for
02:09 22 content that appeared to infringe copyrights?

02:09 23 A. I'm not sure I would phrase it exactly as you
02:09 24 have, but I'm sure I was probably involved in some
02:09 25 discussions around our practices on these types of

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we also spoke briefly earlier about
targeting advertising to keywords or
different levels of advertising.

10:25:07 But just speaking about the
search page monetization at a more general
level, what kinds of monetization
initiatives for the search page were
undertaken while you were the head of
10:25:23 monetization at YouTube?

A. Two projects. One that was
implemented very early on and literally
had one Click To Play video ad or CTP
video ad against search results. And the
10:25:59 second one was the larger initiative of
integrating into Google AdWords and
allowing the advertising community to buy
advertising options against YouTube search
as well.

10:26:18 That's as much detail as I can
give you. Beyond that, I am not certain
of all the details.

Q. And I think you mentioned
earlier Matthew Liu as being in charge of
10:26:37 search-related monetization projects; is

1 SETH

2 Seth Exhibit 4.

3 (Seth Exhibit 4, document
4 produced by Google, Bates stamp
5 10:28:35 GOO001-01016844 through 01016845,
6 marked for identification, as of
7 this date.)

8 MR. WILKENS: And it's a
9 document produced by Google in the
10 10:28:30 litigation with the Bates stamp
11 GOO001-01016844 through 01016845.

12 Q. Do you recognize this document,
13 Mr. Seth?

14 A. I do.

15 10:29:12 Q. And does this refresh your
16 recollection about why you undertook a
17 classification of YouTube search queries?

18 A. From the people who are on the
19 list or based on the people who are on the
20 10:29:30 list, I believe that I undertook this
21 exercise to help the business development
22 team at YouTube figure out what verticals
23 made sense for furthering partnership
24 opportunities or personal partnership
25 10:29:53 opportunities.

1 SETH

2 Q. And again, for the lay person,
3 can you just describe what a vertical
4 means?

5 10:30:01 A. I can give you a -- I can
6 describe how this is done, and that may
7 help you understand.

8 So what we did was took one
9 day's worth of search queries performed on
10 10:30:24 the YouTube search. And then we used an
11 algorithm that Google search team has
12 built and utilizes, that they take a
13 search query, and then it can look at the
14 search query and classify it in a
15 10:30:47 particular vertical.

16 So if you had a health-related
17 query or a medicine query, it may look at
18 it, and based on how that algorithm works,
19 it may say, this is related to the health
20 10:31:03 vertical.

21 That kind of classification
22 system was run on all the queries for one
23 day, and that's what produced this kind of
24 analysis.

25 10:31:15 Q. So if I -- for me that was very

1 SETH

2 helpful.

3 If I look at the bottom of
4 this -- these e-mails, the very end of the
5 10:31:29 document, is that where, where it says,
6 "Music 26 percent" and continues down, is
7 that a list of the kinds of verticals you
8 were just referring to?

9 A. Yes. What this is -- what this
10 10:31:46 analysis further is telling you, that the
11 demand from those search terms for what
12 users are looking for roughly breaks down
13 into these verticals.

14 Q. So 26 percent for music and 3.8
15 10:32:01 percent for movies, for example?

16 A. Correct. And this is not a
17 precise algorithm. It is, you know, prone
18 to error, yet, you know, directionally,
19 provides you the right answers.

20 10:32:17 Q. And then, I guess if you look
21 further up, the same e-mail at the very
22 top, it says the e-mail that you had sent
23 to Alex Ellerson and others on May 15th
24 says that 47 percent of the top queries
25 10:32:44 fall under entertainment, right?

1 SETH

2 A. Yes.

3 Q. Do you see where it says that?

4 A. Yes. I think that was just a
5 10:32:50 collection of various verticals combined
6 together. Or at least that's how I would
7 have done it. I don't know where that
8 number came from, but I would surmise that
9 I had added up a couple of these verticals
10 10:33:08 together.

11 Q. And then Chris Maxcy, looks like
12 the e-mail above that, in response to your
13 e-mail, asks you for a further breakdown
14 of entertainment.

15 10:33:17 A. That is exactly it, yes.

16 Q. That's what's reflected even
17 further up at the very top of the page; is
18 that correct?

19 A. That is correct.

20 10:33:24 Q. So that's a breakdown of what
21 was in the 47 percent under entertainment?

22 A. That is correct.

23 Q. And those are also, I guess,
24 just verticals at a different level, the
25 10:33:34 entertainment/celebrities,

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entertainment/clubs and nightlife; is that correct?

A. That's correct. Those would be described by this algorithm as subverticals.

Q. Those are coming from the Google algorithm you mentioned?

A. Exactly.

10:33:48 Q. Do you know if anything was done as a result or stemming from the analysis that you provided here?

A. No.

Q. Do you recall if there was any follow-up with you, based on the analysis that you sent in this e-mail?

MR. WILLEN: Objection to the form. Vague.

A. From my recollection, there were many conversations with various people in the business development team. I may have briefed some people on what this data suggests; but I wasn't involved in business development, and I had no idea how people took this data and what did

1 SETH

2 as well. As I indicated, the people are
3 searching in French and British and
4 Japanese and Indian content and zone.

5 10:43:25 Freshness is definitely important as well,
6 as I highlighted here. And zone.

7 So just to summarize it, my
8 intent was to just pick out a couple of
9 key things, highlight them and then allow
10 10:43:39 people to draw conclusions from it on
11 their own.

12 Q. And so looking at this analysis
13 in Exhibit 5 and the analysis that we
14 looked at a minute ago in Exhibit 4,
15 10:43:53 although different methods are applied to
16 both, both analyses indicate that music --
17 that entertainment, including music and TV
18 shows, is a popular search term, or
19 popular search terms, correct?

20 10:44:13 A. Yes. It does indicate demand.
21 It doesn't indicate what people are
22 watching. Neither of these methods have a
23 way to find that. But they certainly do
24 suggest demand.

25 10:44:24 Q. They suggest what the users are

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looking for, correct?

A. Correct.

Q. And if you look at the first
10:44:33 page of the attachment to Exhibit 5, where
it lists all -- begins listing all of the
queries. Just so I understand how this
works, and maybe we won't pick the first
one, but maybe the third one, Paris
10:44:48 Hilton, the number that comes after the
comma, the 155769, what does that
represent?

A. I believe that Paris Hilton and
all synonyms related to Paris Hilton were
10:45:09 looked for, you know, 1.5 million times,
roughly.

Q. I think it might be --

A. Sorry, 155,000.

Q. And it appeared --

10:45:28 A. So the ordering here is the top
query and all synonyms and so on.

Q. We can put that to the side.

THE WITNESS: Can I take a very
quick bathroom break?

10:45:58 MR. WILKENS: Yes.

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THE VIDEOGRAPHER: The time is
10:46 a.m., and we are going off the
record.

10:46:03 (Whereupon, there is a recess in
the proceedings.)

THE VIDEOGRAPHER: The time is
10:56 a.m., and we are back on the
record.

10:56:36 Q. Hi, Mr. Seth.

If we can go back to Exhibit 4
for a minute.

A. Yes.

Q. Just looking at the group of
10:56:53 numbers at the top, maybe the first line,
which says "Entertainment celebrities,"
and then it has a 184 then it has a 2.77
number.

Can you explain what the 2.77 --

10:57:10 A. It's a percentage point.

Q. It's a percentage.

A. The 184 is, from what I can
recollect and that I think this e-mail
suggests as well, is just a classification
10:57:22 number that reflects that first line.

1 SETH

2 Q. So -- and so the 2.77, the
3 percentage number, what is that a
4 percentage number of?

5 10:57:33 A. It says that the number of
6 queries, this analysis that I did from the
7 algorithm, number of queries for that
8 given day or that set of queries, 2.77
9 percent of those queries fall into this
10 10:57:56 subcategory.

11 Q. Thank you. Thank you.

12 I think earlier you mentioned in
13 the monetization world that you were
14 working in at YouTube, there were two
15 10:58:08 search-related monetization projects, one
16 being Click To Play video ad and one being
17 this integration to AdWords.

18 Is that -- do I have that right?

19 A. That is correct.

20 10:58:18 Q. And these last two exhibits,
21 Exhibit 4 and Exhibit 5, that are analyses
22 or classifications of queries, are
23 those -- were those related to the Click
24 To Play video ad project in any way?

25 10:58:38 A. No.

1 SETH

2 Q. So --

3 A. These analyses had nothing to do
4 with product development at all.

5 10:58:48 Q. You may have said this earlier,
6 but can you just explain what the purpose
7 of them was? Or what --

8 A. From what I can recall, these
9 two analyses were to help the partnership
10 10:59:04 team determine where their focuses should
11 lie.

12 Q. And when you say "the
13 partnership team," are you referring to
14 what content partners they should be
15 10:59:16 approaching?

16 A. That would be projecting what
17 they were thinking. My goal was to just
18 help them understand what the user demands
19 were, and then they could use it any which
20 10:59:36 way they were. So one could guess that
21 maybe that is what they were planning to
22 do, but I don't know for a fact.

23 Q. But those, I guess the people
24 that were are listed on Exhibit 4 and
25 10:59:51 Exhibit 5 that you were e-mailing with,

1 SETH

2 mischaracterizes what he said.

3 A. I believe that the one box
4 solution was implemented. I do not know
5 11:18:49 when or exactly how the implementation was
6 done, but I do recall that it was
7 implemented some time.

8 MR. WILKENS: Actually, this is
9 a good time to break. We have to
10 11:19:26 switch the videotape.

11 THE VIDEOGRAPHER: The time is
12 11:19 a.m. This ends tape number two
13 of the videotaped deposition of
14 Mr. Shashi Seth.

15 11:29:30 (Whereupon, there is a recess in
16 the proceedings.)

17 THE VIDEOGRAPHER: The time is
18 11:30 a.m. This begins tape number
19 three of the videotape deposition of
20 11:30:04 Mr. Shashi Seth.

21 Q. Turning back to, well, our
22 discussion a little bit earlier on the two
23 search-related monetization projects that
24 you mentioned, Click To Play video ad and
25 11:30:22 integrating into AdWords. I know you said

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you are not the expert on those two, but
can you just describe in general terms
those two projects?

11:30:34 A. The Click To Play video ad unit
was, very simply, a single ad unit located
in the top right corner of the search
results page that was somehow tied to
broad targeting or category-based
11:30:56 targeting in YouTube search.

So people could buy broad
categories rather than keywords for the
Click To Play video ad units. So for
example, if you were Gatorade, you may
11:31:14 want to buy the sports categories and then
maybe specifically the
sports/soccer/tennis and so on.

That project ran for a fairly
long period of time, and it did distinctly
11:31:35 well.

And the next project, where the
details are a lot fuzzier for me, is the
integration into AdWords, where broadly
the idea was that people could log into
11:31:46 the AdWords system on Google.com, collect

1 SETH

2 a new tab that would say "YouTube" and
3 then be able to somehow purchase keywords.

4 And I don't know exactly what
5 11:32:00 the methodology was or how those were
6 targeted, et cetera, but the end result
7 would be that you would get small ad units
8 or what we call promotion units in the
9 right column of the YouTube search
10 11:32:17 results. And that project, I believe, was
11 launched September or October of last
12 year, of 2008, well after I left.

13 Q. So going back to the one, the
14 project -- the Click To Play video ad
15 11:32:34 project. I think you said it was, it
16 existed for a fairly long period of time.

17 Do you know approximately how
18 long?

19 A. From maybe April of 2007 maybe
20 11:32:54 even up to such time as the new project
21 was launched. I'm not certain about the
22 date, but it might be October of 2008.

23 Q. Okay. And is the Click To Play
24 video ad you mentioned, is that the same
25 11:33:16 thing as a search PVA ad?

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I remember doing some broader study than the e-mail that we had here and which may have resulted in a presentation 11:36:34 or two.

MR. WILKENS: This is Seth Exhibit 8. And it's a document produced by Google in the litigation. The Bates number GOO001-00237294 to 11:37:17 237295.

(Seth Exhibit 8, document produced by Google, Bates number GOO001-00237294 to 237295, marked for identification, as of this 11:37:31 date.)

A. Uh-hum.

Q. Do you recognize this e-mail, Mr. Seth?

A. Yes.

11:37:34 Q. And at the very top it's an e-mail, the last in time e-mail from you to Steve Chen, with a cc to David Eun and Chad Hurley, correct?

A. That's correct.

11:37:48 Q. And does this e-mail relate to

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the project that you were just talking
about a moment ago?

MR. WILLEN: Objection to the

11:38:00 form, vague.

A. I think this was the start of
the conversation, if I remember correctly.
And I think what I'm doing is describing a
methodology that one could adopt.

11:38:23 And then I believe, as time went
by, we discovered that there were maybe
simpler and better ways to get at the data
and maybe -- it may even be that the
question at hand may have changed
11:38:40 slightly; and so I believe we ended up
with a completely different methodology
than the one that I'm describing here.
And I don't think we ever ended up using
this methodology.

11:38:53 Q. Do you see I guess in the e-mail
toward the bottom, where Steve Chen says,
he's responding I believe to David Eun, he
says he's cc'ing you on this e-mail,
although I guess the cc isn't shown, for
11:39:10 whatever reason.

1 SETH

2 Do you see where he says, "We
3 are trying to get to the bottom of the
4 question regarding the value of premium
5 11:39:20 content, and this will guide us where to
6 focus. As Dave mentioned, should we focus
7 on our user-generated content or should we
8 continue pushing with large content
9 partnership deals."

10 11:39:31 Do you see that?

11 A. Yes.

12 Q. And is that your understanding
13 of the question you were asked to weigh in
14 on, at least in the beginning of the
15 11:39:41 project?

16 A. Yes, I think so. As it relates
17 to this question, this is the methodology
18 at the top of the page that I suggested.

19 But I'm also suggesting that
20 11:39:53 from what I can recollect, I don't think
21 we ever went down this path or used this
22 methodology. My recollection says that we
23 used a very different methodology.

24 Q. Can you -- at the very top of it
25 11:40:11 mentions Palash and Julia.

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Do you know who's being referred
to there?

A. Palash and Julia are engineers
11:40:18 at YouTube. Julia was specifically an
engineer on the data team.

Q. What's her last name, by the
way?

A. Peker, P-E-K-E-R.

11:40:31 Q. And what's Palash's last name?

A. No. No idea.

Q. Does --

A. I can't recall.

Q. Does Palash Nandy, N-A-N-D-Y,
11:40:49 sound familiar?

A. Yes, yes, sounds familiar.

Q. So what team was he on? You
said he was an engineer on what team?

A. He was an engineer -- he was on
11:40:59 the team that provided or that built the
recommendation engine, all the, you know,
once you watch a video, at the end it
comes two or three other videos that you
may want to watch. That technology, I
11:41:19 think, was built by Palash.

1 SETH

2 Q. And why did -- why were those
3 the two people that you brainstormed with
4 about this request from Steve Chen?

5 11:41:40 A. Both had interesting ideas on
6 how we could approach the problem. And
7 then, like I said, I think there's
8 probably a dozen or more ways to get to
9 the same answer, using different

10 11:41:58 techniques. And this was one such
11 technique that we discussed and said may
12 be a good place to start.

13 Q. And if you look at the first, I
14 guess dash or bullet point.

15 11:42:11 A. Yeah.

16 Q. When it says, "Compare total
17 view counts of PC, premium content, versus
18 UGC content," what do you mean by "premium
19 content"?

20 11:42:27 A. I think at that time we used
21 partner content, professional content,
22 premium content not only interchangeably,
23 but often liberally, without having a
24 particular meaning assigned to it. What
25 11:43:08 it meant, very simply, is a partner with

1 SETH

2 whom we had a contract to use their
3 content on YouTube.

4 Q. And what did you mean by "UGC
5 11:43:36 content"?

6 A. A user who isn't in the
7 profession of creating video on a regular
8 basis. They do it as a hobby, so to
9 speak.

10 11:43:57 Q. So are premium content and --
11 are there videos -- at this time, I guess,
12 are there videos on YouTube that would not
13 fall within one of these two categories?

14 A. No. I'd say videos could be
15 11:44:35 classified in one or the other category.

16 Q. So a video is either premium
17 content from a partner with whom YouTube
18 had a contract, or it was from a content
19 owner -- I'm sorry, or it was from a user
20 11:44:53 who wasn't in the profession of creating
21 content, who didn't have a contract with
22 YouTube?

23 A. Yes.

24 And one thing to think about
25 11:45:01 here is that although that may not have

1 SETH

2 been the intent for this particular case,
3 partners, in my opinion, fall both on the
4 professional side as well as the UGC side.

5 11:45:17 So even if they weren't part of the User
6 Partner program, they were a partner.

7 Q. And so videos of users that were
8 in the User Partner program would have
9 fallen on the premium content side of the
10 11:45:31 analysis?

11 A. Could be. I really cannot
12 speculate to whether I was exactly
13 thinking that when I wrote this e-mail,
14 but just broadly speaking, partners would
15 11:45:41 include both professional as well as UGC
16 partners.

17 Q. And then the next sentence where
18 it says, "We will remove all premium
19 content that was uploaded by users from
20 11:45:52 these counts to make sure we are comparing
21 apples to apples," what did you mean by
22 that?

23 A. I believe what I was alluding to
24 was the scenario. I'll just describe the
25 11:46:12 scenario.

1 SETH

2 Imagine Shakira's video is owned
3 by Warner Brothers. Just imagine for a
4 second that that is true, that all copies
5 11:46:24 of that video or versions of that video
6 uploaded by users who may not own the
7 rights to that video, if they could be
8 removed, it would be an apples to apples
9 comparison.

10 11:46:41 Q. So from the UGC content category
11 you are suggesting that you would remove
12 the non-Warner version, Warner Brothers
13 version of the Shakira videos and take
14 those out of that bucket?

15 11:46:58 A. Count. Correct, yes.

16 Q. And then can you just explain
17 for the next bullet, the purpose of the
18 signals that you are suggesting there?

19 What they were meant to do in
20 11:47:19 the analysis?

21 A. Just give me a minute to just
22 read through the whole thing so I can
23 start building my analysis of why I -- we
24 were going down this path. Okay.

25 11:48:31 So here, just to compare -- the

1 SETH

2 Yes. So what we were saying
3 with the second bullet point is that if we
4 adjust the UGC pool for own original
5 11:55:53 content, as far as YouTube could know,
6 then do things become different.

7 (Seth Exhibit 10, document
8 produced by Google, Bates number
9 GOO001-02414976 to 2414980, marked
10 11:57:47 for identification, as of this
11 date.)

12 MR. WILKENS: This is Seth
13 Exhibit 10. And it's a document
14 produced by Google, beginning with the
15 11:57:44 Bates number GOO001-02414976, ending
16 in 2414980.

17 A. Okay.

18 Q. Do you recognize this document?

19 A. Somewhat, yes.

20 11:59:39 Q. And at least the last in time
21 e-mail, the very top of the first page it
22 is from you to Jordan Hoffner, Julia Peker
23 and Palash Nandy, correct?

24 A. Uh-hum.

25 11:59:53 Q. And it's titled, The First Peek

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SETH

At the Numbers.

Who is Jordan Hoffner?

A. He is the director of business
12:00:05 development at YouTube.

Q. And why were you sending a first
peek at the numbers to him?

A. Most likely because we may have
had a hallway conversation about
12:00:24 something, and it was in response to that.

I don't remember for sure.

Q. If you look down at sort of the
middle of the first page, where it's an
e-mail from Julia Peker that starts with,
12:00:46 "Hey, Shashi, "and ends with "Let me know
if you have questions."

Do you see that?

A. Yeah.

Q. And she says that she's
12:00:54 attaching some numbers and that she's
analyzing all views for the week of
May 6th --

A. Right.

Q. -- do you see that?
12:01:07 Is there any particular reason

1 SETH

2 why that week was selected?

3 A. No. Just a random selection of
4 one week.

5 12:01:18 Q. The analysis was of all views
6 for that week?

7 A. One week, yes.

8 Q. That would --

9 A. And then one week period was
10 12:01:27 chosen, as that was what was possible to
11 do in a fairly short period of time run.
12 Running anything more than that would have
13 taken many days.

14 Q. Is it your understanding that
15 12:01:41 refers to the week of May 6, 2007?

16 A. Right, yes.

17 Q. And the numbers that she says
18 she's attaching, those are the numbers
19 that appear on the last page of this
20 12:01:55 exhibit; is that right?

21 A. Yes. And I don't understand
22 everything about this --

23 MR. FRANKS: There's no question
24 pending. You answered the question.

25 12:02:10 Q. I guess sort of flipping back

1 SETH

2 between the first page and the last page,
3 she says she "has total views used for
4 premium partners only and views for
5 12:02:29 content that was taken down for copyright
6 issues (some interesting numbers there)."

7 Do you understand why she
8 included numbers for total views, views
9 for premium partners only and views for
10 12:02:49 content that was taken down for copyright
11 issues?

12 MR. WILLEN: Objection. Calls
13 for speculation.

14 A. No, I have no idea.

15 12:02:54 Q. Now, if you look at the last
16 page, you see on the left where it says,
17 "All premium and copyright."

18 Is that referring to the three
19 categories that Julia Peker mentioned in
20 12:03:23 the e-mail that we were just reviewing?

21 A. Yeah. This is what I don't
22 understand.

23 MR. FRANKS: You want to look at
24 this one, so you can see two at the
25 12:03:52 same time?

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THE WITNESS: No, this is good.

Q. You may not want to write on the
actual exhibit. You just want to see the
12:03:59 commas?

A. Yeah.

MR. FRANKS: You can do it on
mine. You can write the commas on
there.

12:04:14 Q. I had the same desire.

THE WITNESS: Thank you.

MR. WILLEN: Sorry. What was
the question?

MR. WILKENS: Yeah, whether -- I
12:04:33 asked whether the words on the left,
leftmost column of the last page, "all
premium and copyrighted," correspond
to the categories that are in Julia
Peker's e-mail on the first page that
12:04:49 we just talked about.

MR. WILLEN: Objection. Calls
for speculation.

A. From what I can understand of
the document, it breaks down into three
12:05:03 buckets of all views of all content for

1 SETH

2 that one-week period, views for content
3 that came from a list of partners under
4 the line item Premium, and then a list
5 12:05:28 of -- or views of content that were
6 removed from YouTube, for a number of
7 reasons.

8 Q. And Julia says in the first page
9 this is for copyright issues, correct?

10 12:05:45 MR. WILLEN: Objection. The
11 document speaks for itself.

12 Q. You can answer the question.

13 A. That's what she says, yes.

14 Q. Now, just moving over a few
15 12:06:04 columns to the Count Videos column.

16 A. Uh-hum, yes.

17 Q. Is it your understanding that
18 that represents the videos that were --
19 the number of videos that were viewed with
20 12:06:19 the views that are in the, I guess the
21 first column of numbers?

22 MR. WILLEN: Objection to the
23 form.

24 A. It refers to the actual number
25 12:06:31 of individual videos.

1 SETH

2 Q. In that bucket -- in each
3 bucket?

4 A. That generated the number of
5 12:06:38 views in the first column.

6 Q. Okay. And then, if you look one
7 column further to the Average Views Per
8 Video, am I correct that that represents
9 the views -- the number of views in the
10 12:06:53 first column divided by the number of
11 videos in the Count Videos column?

12 A. That's correct.

13 Q. So that the average number of
14 views for all videos was approximately 110
15 12:07:06 views?

16 A. Correct.

17 Q. And that the average number of
18 views for all premium videos was 1,340?

19 A. Correct.

20 12:07:24 Q. And that the average number of
21 views per video for the copyrighted bucket
22 is 765, correct?

23 A. That is correct.

24 Q. And you -- and turning back to
25 12:07:45 the first page, you forwarded this to

1 SETH

2 numbers on to Mr. Hoffner?

3 MR. FRANKS: Objection. Calls
4 for speculation. Incomplete
5 12:09:42 hypothetical.

6 A. I think, as I said in that
7 e-mail, that this is very early analysis,
8 and that's it. I'm guessing from the
9 content of the e-mail, I would guess that
10 12:10:02 was too early to start even thinking about
11 any details at that point.

12 MR. WILKENS: This is Seth
13 Exhibit 11. It's a document produced
14 by Google with the Bates number
15 12:10:52 GOO001-03241189 through 3241192.

16 (Seth Exhibit 11, document
17 produced by Google, Bates numbers
18 GOO001-03241189 through 3241192,
19 marked for identification, as of
20 12:11:50 this date.)

21 A. Yeah.

22 Q. And do you recognize this
23 document, Mr. Seth?

24 A. Uh-hum.

25 12:12:01 Q. It's an, at least the top, the

1 SETH

2 first, last-in-time e-mail, the top e-mail
3 on the first page, is from Julia Peker to
4 Shashi Seth, with a copy to Jordan Hoffner
5 12:12:15 and Palash Nandy. And in that first
6 e-mail Julia Peker says that she's sending
7 the same spreadsheet with numbers for
8 favorites, comments and subscriptions.

9 Do you see that?

10 12:12:29 A. Uh-hum.

11 Q. And then, if you turn to the
12 last -- the last two pages, you see at the
13 top of the Bates numbered page beginning
14 3241191, the top there and extending over
15 12:12:53 to the next page, 3241192, the same
16 numbers that we were just discussing in
17 Seth Exhibit 10, correct?

18 A. Correct.

19 Q. And then below that Julia Peker
20 12:13:11 has added additional numbers, which she
21 mentions on the first page, right?

22 A. Correct.

23 Q. And I believe these are the
24 signals that we were talking about earlier
25 12:13:23 for favorites, UGC content -- favorites

1 SETH

2 comments; is that correct?

3 A. Correct.

4 Q. And if you look on the -- well,

5 12:13:43 the columns of data here under the

6 favorites analysis, for example, under

7 Premium Content there's a count for the, I

8 guess the total number of videos that

9 were -- is that the total number of videos

10 12:14:08 that were favorited in the Premium Content

11 bucket?

12 MR. WILLEN: Objection. Calls

13 for speculation.

14 A. I believe the way the data is

15 12:14:25 laid out is that the first number falls

16 under the count of users, that number of

17 users. The second number comes from the

18 count of videos. So those were the actual

19 number of videos that, in this analysis,

20 12:14:40 were used.

21 And then the third number, the

22 115,027 number, is the one that reflects

23 the number of times that somebody

24 favorited that video --

25 12:14:56 Q. And --

1 SETH

2 A. -- those 7,678 videos.

3 Q. So all 7,678 videos were
4 favorited in an aggregate number of
5 12:15:13 115,027 times, correct?

6 A. That's correct.

7 Q. The next number, it says Average
8 Fave Per Video. I think that means
9 average favorite for video?

10 12:15:21 A. That's correct.

11 Q. Is the number of videos divided
12 by the number of -- the number of
13 favorites divided by the number of videos,
14 correct?

15 12:15:29 A. That's correct.

16 Q. So it's 14.98 times favorite per
17 video, correct?

18 A. Correct.

19 Q. And that's for the Premium
20 12:15:37 Content bucket, right?

21 A. That is correct.

22 Q. And then, if you go to the next
23 bucket, the UGC -- what's called here the
24 UGC Content bucket, the average number of
25 12:15:49 favorites per video is 3.76; is that

1 SETH

2 correct?

3 A. That is correct.

4 Q. And just going further down to
5 12:16:01 the Comments Analysis, the average
6 comments per video for premium content is
7 7.05, and it's -- and the average --

8 MR. WILKENS: Sorry, strike
9 that.

10 12:16:13 Q. If you go down to the Comments
11 Analysis for the premium content bucket
12 the average comments per video is 7.05,
13 correct?

14 A. That is correct.

15 12:16:21 Q. And then for the UGC content
16 bucket, the average comments per video is
17 2.8, correct?

18 A. Correct.

19 Q. And for -- the very bottom here,
20 12:16:36 the Subscription Analysis, can you explain
21 what a subscription is?

22 A. When a user subscribes to a
23 video, they are subscribing both to the
24 creator of the video or the user who
25 12:16:54 uploaded that video as well as the video

1 SETH

2 itself. And based on that subscription,
3 they get notifications of what is
4 happening with that user.

5 12:17:04 So every time a new video is
6 uploaded by that user, you would get a
7 notification, for example, an e-mail, that
8 says, this user has uploaded a new video.
9 Or if it's the video, you may get
10 12:17:20 notifications of, hey, there's a new
11 comment, et cetera.

12 So it's a pretty important
13 element as well, in terms of signals of
14 how users interact with the video.

15 12:17:41 Q. And I guess underneath here
16 there's a Premium Channels heading or
17 subheading.

18 Do you know if there was any
19 analysis done on any other categories or
20 12:18:00 buckets, like UGC channels?

21 MR. WILLEN: Objection to the
22 form.

23 A. I believe this e-mail is -- I
24 believe in this e-mail Julia has left out
25 12:18:34 the word UGC Count Subscribers, but that's

1 SETH

2 what it's meant to be, is that the first
3 line item under the Subscription Analysis
4 is meant to be for premium channels, and
5 12:18:47 the second one is supposed to be for UGC
6 channels. And she may have left that out,
7 but that's what it's meant to do, is to
8 compare those two, much like how she's
9 done it for the other categories.

10 12:19:04 Q. And do you know whether any
11 further analysis of, along the lines of
12 what's an Exhibit 10 and Exhibit 11, was
13 done after Julia Peker sent Seth
14 Exhibit 11?

15 12:19:33 MR. WILLEN: Objection to the
16 form.

17 A. I don't recall.

18 Q. Do you recall reporting these
19 numbers or -- to anyone at YouTube, other
20 12:19:54 than Jordan Hoffner?

21 A. No. Unfortunately, I do not
22 recall.

23 MR. WILLEN: Is this a good time
24 for lunch, or do you want to --

25 12:20:42 MR. WILKENS: Actually, it is a

1 SETH

2 A F T E R N O O N S E S S I O N

3 (Time noted: 1:12 p.m.)

4 S H A S H I S E T H , resumed and

5 testified as follows:

6 EXAMINATION BY (Cont'd.)

7 MR. WILKENS:

8 THE VIDEOGRAPHER: The time is

9 1:12 p.m., and we are back on the

10 01:12:42 record.

11 MR. WILKENS: Mark the next

12 exhibit. This is number 12.

13 (Seth Exhibit 12, document

14 produced by Google, Bates numbers

15 01:13:41 GOO001-0943950 through 5943959,

16 marked for identification, as of

17 this date.)

18 MR. WILKENS: This is a document

19 produced by Google in the litigation,

20 01:13:39 beginning with the Bates number

21 GOO001-0943950, ending 5943959.

22 Q. Do you recognize this document,

23 Mr. Seth?

24 A. Yes.

25 01:14:09 Q. Is this a cover e-mail with a

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SETH

presentation that you prepared?

A. Yes.

Q. And does this presentation

01:14:26 contain or refer to some of the data that
we were talking about in Seth Exhibits 10
and 11?

A. Right. Some of that, however, I
think the methodology for how this was
01:14:43 done was very different than the
methodologies referred to in the prior
exhibits.

Q. And can you explain how the
methodologies differed?

A. So in this particular version, I
believe what we did was looked at the
search terms for a particular day. And
then, using the algorithm that I described
to you earlier about classifying search
01:15:21 terms, broke it down into various
categories and used that as the baseline
for figuring out where those buckets or
categories fell in premium, as I refer to
it here, where it says "UGC content."

01:15:45 It's based on a lot of

1 SETH

2 hypotheses, but that's what we had to go
3 by.

4 Q. And when you were just talking a
5 01:15:52 minute ago about segmenting the views into
6 different buckets or types of content
7 that's on page 3, on page 3 --

8 MR. WILKENS: Strike that.

9 Q. The methodology you were just
10 01:16:14 referring to a moment ago that you applied
11 in this analysis to -- where an algorithm
12 was applied to develop these different
13 breakdowns of content, is that reflected
14 on page 3 of Exhibit 12?

15 01:16:28 A. That is correct.

16 Q. And then that same analysis is
17 used on page 4 to indicate what percent of
18 content that's being watched is premium
19 content; is that correct?

20 01:16:49 A. What I'm referring to here in
21 bullet points 1 and 2 is one of the
22 exhibits that we talked about where Juliet
23 Peker had summarized it in those three
24 lines. The percent points are derived by
25 01:17:11 that, the point 1 and point 2.

1 SETH

2 Q. And if you turn to page 5, where
3 it says, "We also know that there is
4 significantly more community interaction
5 01:17:23 with premium videos than UGC videos," do
6 you see that?

7 A. I see that.

8 Q. The two bullets below those, the
9 numbers in those bullets, are those also
10 01:17:34 derived from the analysis that we were
11 looking at before from Julia Peker?

12 A. That is correct.

13 Q. So these are results that you --

14 MR. WILKENS: Strike that.

15 01:17:48 Q. So there are portions of Julia
16 Peker's analysis that you put into this
17 presentation and then provided to the
18 individuals listed on the front of Seth
19 Exhibit 12, correct?

20 01:18:00 A. That is correct.

21 Q. And did you also discuss the
22 contents of this presentation with them?

23 A. Yes.

24 Q. And did they have questions
25 01:18:16 about the methodology?